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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/402,472 10/12/99 CELERIER

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EXAMINER

QM32/0215

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ART UNIT

PAPER NUMBER

3726
DATE MAILED:

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/402,472

Applicant(s)
Celerier et al.

Examiner
Marc Jimenez

Group Art Unit
3726



☒ Responsive to communication(s) filed on Jan 25, 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 8-17 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 8-17 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claim 8** is rejected under 35 U.S.C. 102(b) as being anticipated by Csanitz et al. (4,437,971).

Csanitz et al. teach the following: a measuring transducer **10** configured to analyze a flow of exhaust gases from the engine, a pipe element **E** adapted to carry the flow of exhaust gases from the engine, the pipe element **E** having an integral housing in which the measuring transducer **10** is mounted, the housing including a threaded hole (see below **16**) extending through a bush made directly through a wall of the pipe element **E**.

Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 9-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Csanitz et al. in view of Applicant's Admitted Prior Art [AAPA] (Page 2, Line 4).

Csanitz et al. teach the invention cited above with the exception of the pipe element having a thickness of between 1mm and 3mm and the pipe element being made of stainless metal alloy.

[AAPA] teaches that current exhaust pipes are between 1.5 and 2 mm (Page 2, Line 4).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Csanitz et al. with a pipe between 1mm and 3mm, in light of the teachings of [AAPA], in order to provide a pipe that is uniformly strong.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Csanitz et al./[AAPA] with a pipe made of stainless metal alloy, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

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5. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over Csanitz et al. in view of either one of Olson (5,984,138) or Heinrichs (DE 42 24 131 A1).

Csanitz et al. teach the invention cited above with the exception of the bush having an interior portion extending further within an interior of the pipe element than an exterior portion extending beyond an exterior of the pipe element.

Olson teaches a pipe element having an exterior and interior portion **20**.

Heinrichs teaches a pipe element having an exterior and interior portion **9**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Csanitz et al. with the bush having an interior portion extending further within an interior of the pipe element than an exterior portion extending beyond an exterior of the pipe element, in light of the teachings of either Olson or Heinrichs, in order to provide a stronger bush in the pipe.

6. **Claims 13, 14, 16, and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Csanitz et al. in view of Head, Jr. et al. (4,428,214).

Csanitz et al. teaches the invention cited above with the exception of forming the housing by using a flow-drilling operation.

Head, Jr. et al. teach flow-drilling (abstract, line 1) a bush **26** to a required height and diameter.

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It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Csanitz et al. with the step of flow drilling the housing, in light of the teachings of Head, Jr. et al., in order to create a symmetrical bush.

Note that the tool is an ogival mandrel **10** (see Head, Jr. et al.) and the bush has an exterior and interior portion **26** (see Head, Jr. et al.).

Csanitz et al./Head, Jr. et al. teach the invention cited above with the exception of the pipe being made of a stainless alloy.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Csanitz et al./Head, Jr., et al. with a pipe made of stainless metal alloy, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

7. **Claim 15** is rejected under 35 U.S.C. 103(a) as being unpatentable over Csanitz et al. in view of Head, Jr. et al. as applied to **Claim 13** above, and further in view of [AAPA].

Csanitz et al./Head, Jr. et al. teach the invention cited above with the exception of the pipe being between 1mm and 3 mm thick.

[AAPA] teaches that current exhaust pipes are between 1.5 and 2 mm (Page 2, Line 4).

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It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Csanitz et al./Head, Jr. et al. with a pipe between 1mm and 3mm, in light of the teachings of [AAPA], in order to provide a pipe that is uniformly strong.

Response to Arguments

8. Applicant's arguments filed 1/25/2001 have been fully considered but they are not persuasive.
9. Applicant's arguments with respect to **Claims 8-17** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Interview After Final

11. Applicant note that an interview after a final rejection will not be granted unless the intended purpose and content of the interview is presented briefly, in writing. Such an interview may be granted if the examiner is convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations which would require more than nominal reconsideration or new search will be denied. See MPEP 714.13 and 713.09.

Contact Information

12. Official documents related to the instant application may be submitted to the Technology Center 3700 mail center by facsimile at (703) 305-3579/3580. Should Applicant desire to submit a DRAFT response to the Examiner by facsimile transmission, then Applicant should contact the Examiner at the number below for instructions concerning the transmission of DRAFT documents. Applicant is reminded to clearly mark any facsimile transmissions as "DRAFT" if it is not to be considered as an official response.

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13. Any inquiry concerning this communication should be directed to Examiner Marc Jimenez at telephone number (703) 306-5965.

MJ

February 8, 2001



S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700